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July 20, 1993

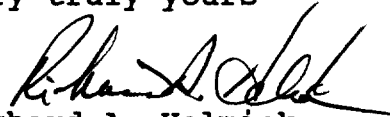
Mr. William F. Caton  
Acting Secretary  
Federal Communications Commission  
Washington, D.C. 20554

Dear Mr. Caton

Submitted on behalf of Golden Orange Broadcasting Co., Inc., licensee of Television Broadcast Station KDOC-TV, Anaheim, California, are an original and four copies of a Petition for Rule Making and Request for Expedited Consideration for amendment of Section 76.51 of the Commission's Rules to include Anaheim, California in the Los Angeles-San Bernardino-Corona-Fontana, California television market.

Any questions pertaining to this matter should be addressed to undersigned counsel.

Very truly yours

  
Richard A. Helmick

Enclosure

cc w/encl.: Alan E. Aronowitz, Esq.  
Legal Branch, Room 8334

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JUL 20 1993

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

BEFORE THE

**Federal Communications Commission**

In the Matter of )

Amendment of Section 76.51 of the )  
 Commission's Rules, To Include Anaheim, )  
 California in the Los Angeles-San )  
 Bernardino-Corona-Fontana, California )  
 Television Market )

To: Chief, Mass Media Bureau

**PETITION FOR RULE MAKING AND**  
**REQUEST FOR EXPEDITED CONSIDERATION**

Golden Orange Broadcasting Co., Inc. ("Golden Orange"), licensee of independent UHF Television Broadcast Station KDOC-TV, Anaheim, California, through its counsel and pursuant to Section 1.401 of the Commission's Rules and Report and Order, MM Docket No. 92-259 (Broadcast Signal Carriage Issues), 8 FCC Rcd 2965, 2977-78, n. 150 (1993), hereby requests that Section 76.51 of the Commission's Rules, 47 C.F.R § 76.51, be amended to change the designation of the Los Angeles-San Bernardino-Corona-Fontana, California television market (the "market") to "Los Angeles-San Bernardino-Corona-Fontana-Anaheim, California."<sup>1/</sup> In support thereof, the following is set forth.

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<sup>1/</sup> On July 15, 1993, the Commission issued a Notice of Proposed Rule Making in MM Docket No. 93-207 proposing to amend Section 76.51 of the Commission's Rules to include Riverside, California in the Los Angeles-San Bernardino-Corona-Fontana, California television market; inasmuch as that Notice of Proposed Rule Making and the instant Petition for Rule Making involve the same television market and the issues in both matters are virtually identical, Golden Orange is requesting that it's Petition for Rule Making be expedited so that the Commission may have the option of determining whether consolidation of the instant petition in MM Docket No. 93-207 would serve the public interest, especially since the instant petition is not subject to the public notice provisions of Section 1.403 of the Rules.

1. Section 76.51 of the Commission's Rules specifies the top 100 television markets and the designated communities within those markets. A station licensed to a community in a major television market listed in Section 76.51 of the Rules is deemed "local" in each of the designated communities within that market for purposes of cable carriage under the mandatory signal carriage provisions of Section 76.56 of the Rules, the cable copyright compulsory license provisions of 17 U.S.C. § 111, and for purposes of territorial exclusivity of non-network programming pursuant to Section 73.658(m) of the Commission's Rules. Because Anaheim is not a designated community in the Section 76.51 market listings, Station KDOC-TV is not considered a "local signal" for copyright purposes throughout the Los Angeles Area of Dominant Influence (ADI) in which it competes, whereas stations licensed to communities specifically designated in Section 76.51 are considered local for all cable systems within the 35-mile zones of all listed communities in a given hyphenated market.

2. The Commission has defined a hyphenated television market as one characterized by more than one major population center supporting all stations in the market but with competing stations licensed to different cities within the market area. See Cable Television Report and Order, 36 FCC2d 143, 173 (1972). Market hyphenation is based on the premise that stations licensed to any of the named communities in the hyphenated market do, in fact, compete with all stations licensed to such communities. See CATV-Non-Network Agreements, 46 FCC2d 892, 888 (1974). Thus, market

hyphenation serves to equalize competition where stations licensed to different communities in a given television market compete for economic support.

3. The Commission has deemed the following factors to be relevant in evaluating requests for market hyphenation:

1. The distance between the proposed community and the existing designated communities;
2. Whether cable carriage, if afforded to the subject station, would extend to areas beyond its Grade B signal coverage area;
3. The presence of a clear showing of a particularized need by the station requesting the change of market designation; and
4. An indication of benefit to the public from the proposed change.

See, e.g., TV 14, Inc. (Rome, Georgia), 7 FCC Rcd 8591, 8592 (1992); Major Television Markets (Fresno, Vidalia, California), 57 RR2d 1122, 1124 (1985). Section 4 of the Cable Television Consumer Protection and Competition Act of 1992, which amended Section 614 of the Communications Act of 1934, as amended, 47 U.S.C. § 614, requires that the Commission make revisions to Section 76.51 of the Rules as needed to update the list of top-100 television markets and their designated communities; such revisions are considered on a case-by-case basis. See Report and Order, MM Docket No. 92-259, supra.

4. Anaheim is an integral part of the Los Angeles, television market. The center of Anaheim is approximately 21 miles east southeast of the center of Los Angeles; in contrast, Corona

and Fontana, California are, respectively, 38 and 44 miles east of the center of Los Angeles.<sup>2/</sup> Indeed, Anaheim's 35 mile exclusivity protection zone is virtually encompassed within the combined 35 mile zones of San Bernardino, Corona and Fontana, with the anomalous result that Anaheim, a smaller television market for purposes of Section 76.51 of the Commission's Rules, is wholly contained within a major television market. Moreover, the Grade B signal contour of Station KDOC-TV encompasses all of the designated communities in the market and, for this reason, there can be no question but that KDOC-TV competes for audience and revenue in virtually the same area as the Los Angeles, San Bernardino, Corona and Fontana stations.

5. But for the fact that Station KDOC-TV did not begin operations until October 1982, after the 1972 adoption of the market designations at Section 76.51 of the Commission's Rules, Anaheim would be included in the market designation. As Station KDOC-TV's Grade B signal strength contour is similar to the Grade B contours of other stations already in the market, Station KDOC-TV's market will not be expanded to any significant degree vis a vis other market stations; indeed, the KDOC-TV transmitter is located at the same Sunset Ridge transmission site as those of

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<sup>2/</sup> Riverside, California is 48 miles east of the center of Los Angeles. By Notice of Proposed Rule Making released July 15, 1993 in MM Docket No. 93-297, the Commission, at the request of Station KRCA, Riverside, California, has proposed to include Riverside, in the Los Angeles-San Bernardino-Corona-Fontana, California television market; the KRCA transmission facilities are located on Sunset Ridge as are those of Station KDOC-TV.

Television Stations KSCI and KZKI, both licensed to San Bernardino, California and, therefore, deemed to be local signals throughout the whole market.

6. As noted above, because Anaheim is not a designated community in the Section 76.51 market listings, Station KDOC-TV is not considered a local signal for copyright purposes throughout the Los Angeles ADI, whereas stations licensed to communities specifically designated in Section 76.51, but more distant from Los Angeles than is Anaheim, are considered local for all cable systems within the 35 mile zones of all listed communities within the above-captioned hyphenated market; this situation places KDOC-TV at a substantial competitive disadvantage vis a vis other stations licensed to communities in the market. Redesignation of the market as requested by Golden Orange would permit market area cable systems to carry Station KDOC-TV on an equal basis with other television stations licensed to communities within the market, i.e., without incurring distant signal copyright liability. Local signal must-carry rights are essential if Station KDOC-TV is to effectively compete against other market stations which are entitled to mandatory carry status. The public will also benefit by access to KDOC-TV's independent, foreign language and other minority programming.

7. For the reasons set forth above, Golden Orange submits that KDOC-TV and stations licensed to communities in the Los Angeles-San Bernardino-Corona-Fontana television market do compete

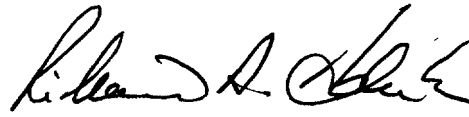
for audiences and advertisers throughout much of the proposed combined market area and that there is a commonality between Anaheim and the above-captioned market as a whole. Moreover, the proposed market redesignation is consistent with Commission policies regarding redesignation of a hyphenated television market and with the public interest. Accordingly, Golden Orange respectfully requests that the proposed market redesignation be effectuated.

Respectfully submitted

GOLDEN ORANGE BROADCASTING

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July 20, 1993